

REMARKS

In the Office Action mailed May 22, 2009 the Office noted that claims 9-19 were pending and rejected claim 9 and 15 and objected to claims 10-14 and 16-19. Claims 10, 11, 13, 15-17 and 19 have been amended, claims 9, 12, 14 and 18 have been canceled, and, thus, in view of the foregoing claims 10, 11, 13, 15-17 and 19 remain pending for reconsideration which is requested. No new matter has been added. The Office's restrictions are traversed below.

ALLOWABLE SUBJECT MATTER

The Office has indicated that claims 10-14 and 16-19 are allowable. The Applicants acknowledge the allowance of the claims and thank the Office for its consideration in examining these claims.

The Applicant has amended claim 10 to include the features of claim 9 and further amended claims dependent from claim 9 to claim 10.

Claim 15 has been amended into independent form including the features of claims 9 and 10.

Thus, the Applicants believe that claims 1 and 15 and the claims dependent therefrom are allowable.

DOUBLE PATENTING

Claims 9-19 are provisionally rejected on grounds of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Patent No. 7,444,973 claims 1-14.

The Applicants respectfully disagree. Independent claim 10 recites "the spacer (80) is formed from a material of which the spacer's own vibration mode is beyond the bandwidth of the sensor (90)." Independent claim 15 recites similar features.

However, neither claims 1-14 of the 7,444,973 patent, nor the specification disclose such a feature. The 7,444,973 patent neither mentions the spacer's vibration or the bandwidth of such a vibration. Therefore, claim 10 is patentably distinct from that which is disclosed and claimed in the 7,444,973 patent.

Withdrawal of the provisional rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 1 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by JP 59 085932. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

The Applicants have taken allowable subject and submit the claims as now written are in a condition for allowance.

Claim 12 was cancelled. Claim 13 has been amended to include the feature of cancelled claim 12.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that claims 10, 11, 13, 15-7 and 19 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston, Jr./  
James J. Livingston, Jr.  
Reg.No. 55,394  
209 Madison St, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

JJL/jr